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Fifty-first session

SUMMARY RECORD OF THE 1333rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 July 1994, at 10 a.m.

Chairman: Mr. ANDO

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GE.94-17625 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Cyprus (CCPR/C/32/Add.18; HRI/CORE/1/Add.28)

1. At the invitation of the Chairman, Mr. Stavrinakis, Mrs. Markides and Mrs. Loisidou (Cyprus) took places at the Committee table.

2. The CHAIRMAN welcomed the delegation of Cyprus and expressed appreciation of the large volume of documentation its Government had provided to facilitate consideration of the report. He recalled the valuable contribution made to the Committee's work by Mr. Mavrommatis, who had chaired the Committee for over 10 years during the difficult period when East-West confrontation had been at its height, and human rights issues had been particularly sensitive.

3. Mrs. MARKIDES (Cyprus) said that, since attaining independence, Cyprus had pursued a policy of active promotion and protection of human rights and fundamental freedoms. It had been one of the first countries to ratify the Covenant, and had in fact ratified or acceded to all international instruments in the human rights field. Her Government's efforts to fulfil its obligations under the Covenant despite the very difficult situation existing in the country had been appreciated by the Committee at the time the initial report (CCPR/C/1/Add.6) had been considered. Recently, the Committee against Torture had commended Cyprus on its advanced legislative and administrative mechanisms for the implementation of international human rights instruments.

4. She was confident that the Committee would show understanding for the delay in submitting Cyprus' second periodic report, which was due to the tragic situation following the invasion and occupation of 37 per cent of the territory of the Republic by Turkey in 1974. As a result of the Turkish occupation, there had been continuous, massive and systematic violations of human rights and fundamental freedoms, contrary to the provisions of the Charter of the United Nations and to both the spirit and letter of the Covenant. Twenty years after the Turkish occupation, nearly 200,000 refugees were still prevented from returning to their homes in the occupied area, in flagrant violation of numerous United Nations resolutions. The European Commission of Human Rights, in a report published in 1992, had concluded that Turkey, by its continued refusal to allow Greek Cypriots to return to their homes in the north of Cyprus, was violating article 8 of the European Convention on Human Rights. It had also found Turkey responsible for many cases of prolonged separation of families.

5. The problem of missing persons remained unresolved, due to the lack of political will on the part of Turkey to cooperate with the Committee on Missing Persons, or to provide the families of the persons concerned with information. The Commission had ruled that the Greek Cypriots who were still missing had been unlawfully deprived of their liberty in Turkish custody in 1974, and had noted that Turkey had failed to account for the fate of those persons. In an attempt to distort the demographic structure of the occupied part of Cyprus, Turkey was continuing its policy of implanting Turkish settlers in the area and according them so-called "citizenship" of the illegal entity, as well as "voting rights".

6. The religious and cultural heritage of Cyprus was being desecrated and plundered. An army of occupation estimated at some 35,000 was turning the occupied part of the island into one of the most highly militarized areas in the world in terms of the ratio between troops and civilian population.

7. The human rights not only of Greek Cypriots, but also of Turkish Cypriots were being violated by the restrictions imposed by the Turkish forces on freedom of movement from the occupied area to the area under the effective control of the Cyprus Government. Owing to the presence of over 90,000 Turkish settlers, conditions in the occupied area had deteriorated, and the number of Turkish Cypriots had declined from 120,000 to less than 80,000.

8. Her Government was committed to a peaceful, just and viable solution to the problem of Cyprus. To that end, it had made painful concessions, the latest being acceptance of the measures proposed by the Secretary-General with a view to creating conditions of greater confidence which would enable substantive talks to be initiated. Despite its many reservations on the basic document proposed, Cyprus had agreed not to raise them, in order to facilitate progress. Unfortunately, as had been noted by the Secretary-General in May 1994, failure to find agreement was due essentially to a lack of political will on the Turkish Cypriot side.

9. Despite those difficulties, however, Cyprus would continue to make every effort to restore and safeguard human rights and fundamental freedoms for all inhabitants of the island. It believed that the international community, and human rights bodies in particular, were duty bound to assist in that effort in countries where long-standing political problems had resulted in human rights violations.

10. Mr. STAVRINAKIS (Cyprus) said that the promotion and protection of human rights was a matter of high priority for his Government. The Constitution of Cyprus not only gave clear legal definitions of human rights and freedoms, but also made effective provision for their enforcement.

11. He regretted that the second periodic report had been prepared on the basis of the guidelines for preparation of initial reports, rather than on the basis of those for the preparation of periodic reports: that was because his Government's main concern had been to make the text readable, and consistent with the reports that had preceded it. Work was already well advanced on the drafting of the third periodic report, which would follow the appropriate guidelines, and it was likely to be completed in some two months' time.

12. Outlining developments since the submission of the initial report of Cyprus, he said that a draft bill was soon to be submitted to the House of Representatives for the amendment of the Commissioner for Administration Law of 1991, with a view to clarifying the functions of the Commissioner, or Ombudsman, when receiving complaints and inquiring into allegations of human rights violations. Under the amended law, the Commissioner, if he concluded that a violation was such as to constitute a criminal offence, would have to submit a report on the matter to the Council of Ministers, the House of Representatives and the Attorney General, thus ensuring that there was no possibility of a cover-up. The amendment would also clear up any ambiguity as to whether the Commissioner could investigate complaints against the police which were of an executive rather than an administrative nature.

13. A further significant development had been the setting up of a Commission of Inquiry to investigate the methods used by the police during the detention and interrogation of suspects. To date, some 22 complaints had been submitted to the Commission: of those, 3 had voluntarily been withdrawn by the complainants, and 3 had been found not to fall within the terms of reference of the Commission. Of the remainder, 8 had already been heard, and investigation of a ninth was due to start shortly.

14. In one case, the Demosthenous case, two police officers had been charged with torturing a suspect in custody. The case had been tried by the Assize Court, and the prosecutor had been the Deputy Attorney General himself. After a long trial, the accused had not been called on to make their defence, and had accordingly been discharged. An application to the Supreme Court for an order of certiorari had been dismissed. In a further case, the Vassiliou case, two police officers had again been charged with ill-treating a suspect. On the basis of the evidence found to be admissible before the court, the accused had been acquitted. He pointed out that criminal trials in Cyprus were based on the accusatorial system, and the court could not embark on investigations of its own to find further evidence. In a third case, an inquiry had been held into an incident involving the use of firearms by the police in an attempt to free a hostage, as a result of which both captor and captive had been killed. After a thorough evaluation of the evidence, the Commission had concluded that no criminal offence had been committed.

15. Further developments had included the setting up of three committees, the first to codify and revise the electoral laws, the second to study a draft bill designed to prevent the ill-treatment of detainees, and the third to revise the law relating to immigration and the acquisition of citizenship.

16. He wished to draw the Committee's attention to the fact that the information contained in the report pertained only to the territory under the effective control of the Government of Cyprus. Since 37 per cent of the Republic's territory continued to be under Turkish military occupation, the Government was prevented from guaranteeing implementation of the provisions of the Covenant for all inhabitants of the territory under its jurisdiction.

17. The CHAIRMAN invited the delegation of Cyprus to respond to the questions in section I of the list of issues, which read:

> "I. Constitutional and legal framework within which the Covenant is implemented; non-discrimination; equality of the sexes; protection of family and children; and rights of persons belonging to minorities (arts. 2, 3, 4, 23, 24, 26 and 27)
>
> (a) Please clarify which provisions of the Covenant can be directly invoked and enforced in the courts of Cyprus and which require specific legislation. Give specific instances where the Covenant has been invoked. How are contradictions between domestic legislation and the Covenant resolved?
>
> (b) Please provide statistical data concerning the participation of women in the political and economic life of the country and in education and public service (see paras. 21-22 of the report).

(c) Has the bill referred to in paragraph 25 of the report aiming at the protection of victims of domestic violence been adopted and, if so, has it led to any measurable progress to date?

(d) With reference to paragraph 26 of the report, please clarify what safeguards and effective remedies are available to individuals during a state of emergency. Are there any legal provisions other than article 183 of the Constitution relating to the introduction of a state of emergency? Please comment on the compatibility of such provisions with the provisions of article 4, paragraph 2, of the Covenant.

(e) Please provide statistical information on the religious and linguistic minorities living in Cyprus and on the assistance given to them to preserve their cultural identity, language and religion.

(f) What steps have been taken to disseminate information on the rights recognized in the Covenant and the first Optional Protocol? How far has the public been informed of the Human Rights Committee's consideration of the report? What non-governmental organizations are active in promoting human rights as mentioned in paragraph 55 of the core document?

(g) Are all matters relating to marriage and divorce dealt with under the new Family Law? Do the ecclesiastical courts or religious bodies retain any functions in marriage and divorce? How does the law provide for equality of rights and responsibilities between spouses in accordance with article 23, paragraph 4, of the Covenant?

(h) In what circumstances do children have the right to acquire nationality through their mother? Do children born out of wedlock have the same rights to nationality, inheritance and other rights as children of marriage?

(i) Having regard to paragraph 13 of the report, is the Government of Cyprus able to provide any information about the enjoyment of rights and freedoms under the Covenant in the occupied part of Cyprus?"

18. Mr. STAVRINAKIS (Cyprus), replying to question (a), said the provisions of the Covenant which were enforceable without the need for special legislation were the so-called "self-executing" provisions. Whether or not a provision was self-executing was somewhat difficult to determine, and fell more within the domain of judicial interpretation. As an example, he quoted a case of 1987 in which there had been a divergence of opinion among the judges of the appeal court as to whether article 25 of the Covenant was self-executing.

19. The applicant in the case had invoked article 25 of the Covenant, concerning the right to take part in the conduct of public affairs, to vote and to be elected, and to have access to public service, which he claimed had been contravened by a provision in the municipality laws. The court had ruled that there was in fact no contravention. On the question of whether article 25 of the Covenant was self-executing, two of the judges had expressed

the opinion that there was no need to pronounce on the issue, on the grounds that article 169.3 of the Constitution of Cyprus did not apply.

20. However, one judge had given the opinion that, although the condition of reciprocity could not be invoked, the Covenant was in effect self-executing, because its provisions could be applied by organs of the State and enforced by the courts. In the judge's view, by creating rights for the individual, those provisions directly affected relations between individuals, as well as relations between individuals and the State or the public authorities.

21. He pointed out that the self-executing nature of a provision operated only as an interim measure for putting the provision into effect until domestic legislation had been amended.

22. With respect to question (b), he drew the Committee's attention to the statistical information on the participation of women in political life, economic life and education set out in the documentation circulated to members of the Committee, information which was still valid.

23. In reply to question (c), he said that the bill providing for prevention of violence in the family and the protection of the victims of such violence, referred to in paragraph 25 of the report, had become law in June 1994. It was still too early to judge how effective that law had been, but he pointed out that it had received the support of all political parties, as well as of non-governmental organizations concerned with the problem of domestic violence.

24. In reply to question (d), he said that under article 183 of the Constitution, a proclamation of emergency was issued by the Council of Ministers in the event of war or other public danger threatening the life of the Republic or any part thereof. The only articles of the Constitution that could be suspended were article 7, which safeguarded the right to life and corporal integrity but only to the extent that it related to death inflicted by a permissible act of war; article 10, paragraphs 2 and 3, relating to the prohibition of forced and compulsory labour; article 11, which safeguarded the right to liberty and security of person; article 13, which safeguarded the right of free movement; article 16, which safeguarded the inviolability of a person's house; article 17, which safeguarded the right to secrecy; article 19, which safeguarded the right of free speech; article 21, which safeguarded the freedom of peaceful assembly; article 23, paragraph 8 (d), which concerned the requisition of property upon payment of equitable compensation; article 25, which safeguarded the right to practise any profession or to carry on any occupation, trade or business; and article 27, which recognized the right to strike.

25. The proclamation of emergency was laid before the House of Representatives, which had the right either to reject or to confirm it. The proclamation was valid for two months unless its operation was prolonged by the House of Representatives at the request of the Council of Ministers. During the emergency the Council of Ministers could, where immediate action was required, issue ordinances which had the force of law and expired at the end of the emergency.

26. Under article 184 of the Constitution, the authority under whose order a person was arrested informed him of the grounds of his detention and afforded him the opportunity of making representation against the order. A person could not be detained for more than one month unless an advisory board was satisfied that there was sufficient cause for further detention.

27. Turning to question (e), he said that the Greek Cypriot community comprised Greek Orthodox citizens of the Republic. The Turkish Cypriot community comprised Muslim citizens of the Republic. The small Armenian, Maronite and Latin religious groups had opted to belong to the Greek Cypriot community.

28. Following the Turkish invasion of July/August 1974, the Turkish Cypriots had moved and settled in the Turkish-occupied area, which was inaccessible and beyond government control. The number of Turkish Cypriots had been estimated at 95,000 at the end of 1993. Turkish Cypriot fertility and mortality did not differ from the figures for the Greek Cypriots. However, based on data from Turkish Cypriot sources, more than 40,000 Turkish Cypriots had emigrated since 1974. The most recent data on religious minorities gave the following population estimates for 1993: Maronites, 4,100; Armenians, 2,300; Latins, 600.

29. On question (f), he said that the second periodic report had been announced in the press by the Information and Press Bureau. The non-governmental organizations that were active in Cyprus for the protection of human rights were the International Association for the Protection of Human Rights and the Pancyprian Human Rights Association.

30. Replying to question (g), he said that the Constitution of the Republic had been amended by Law No. 95/89 to provide that matters which concerned the citizens of the Republic belonging to the Greek Orthodox Church and related to divorce, separation and family relations would be decided by family courts. The new Family Law No. 23/90 concerned civil marriages between persons belonging to the Greek Cypriot community and included the marriages of persons who were Orthodox Christians. Mixed marriages not covered by Law No. 23/90 were still governed by the old Marriage Law, chapter 279, of the laws of Cyprus. With regard to Turks professing the Muslim faith, their family relations were still governed by the provisions of the Turkish Family Law, chapter 339.

31. A person belonging to the Greek community might choose to have an ecclesiastical marriage according to the respective ecclesiastical law of his or her religious group. Marriages celebrated according to the Greek Orthodox ecclesiastical law could be dissolved by family courts in accordance with the provisions of Law No. 23/90. Mixed marriages celebrated in accordance with chapter 279 could be dissolved in accordance with the provisions of the English Matrimonial Causes Act 1950 and the Matrimonial Causes General Order 1957.

32. According to article 5 of the Relations between Parents and Children Law No. 216/90, the father was no longer the sole guardian of the child and both parents had the right and duty to exercise parental care. Moreover, according to article 6 of the same Law, when the court had to decide to grant parental care to one of the parents, its primary consideration must be the interests of

the child. It must respect equality between the parents and could not discriminate on the basis of sex, language, religion, convictions, race, ethnic or social origin or economic situation. Both parents had an obligation to provide for the maintenance of the child. Law No. 232 of 1991 regulated the property relationship of the spouses and was in accordance with article 23, paragraph 4, of the Covenant. In particular, section 3 of the Law provided that the spouses had a mutual responsibility for maintenance according to their financial means. In the event of dissolution of the marriage, the court could, upon the application of one spouse, issue an order under which the other spouse had to provide maintenance for the applicant.

33. Turning to question (h), he said that under the Cyprus citizenship laws of 1967-1983 the acquisition of Cypriot citizenship was possible only when a person descended in the male line from a Cypriot citizen. Section 5 (3) of that Law, however, provided for an exception to that general rule and gave the Minister of the Interior the discretionary power to decide whether the children of a Cypriot woman could become citizens of the Republic even though their father was an alien. The practice followed by the Immigration and Aliens Department in examining such applications was to give the children Cypriot citizenship only when their father had already become a Cypriot citizen after their birth, when the children could not apply for any other citizenship or when the minor had served in the National Guard.

34. It should be noted, however, that the practice followed in the past had been changed after a recent report by the Commission for Administration and that Cypriot citizenship was at the present time granted to all children whose mother or father was a citizen of Cyprus. A committee had been set up to revise the laws relating to nationality.

35. By Law No. 50/79 the Republic of Cyprus had ratified the European Convention on the Legal Status of Children Born Out of Wedlock. Under that law, paternal affiliation of every child born out of wedlock might be established by voluntary recognition or by judicial decision. According to article 9 of the Convention, the child born out of wedlock had the same right of succession in the estate of its father and mother and of a member of its father's or mother's family as if it had been born in wedlock. To give effect to the above provision, his Government had enacted Law No. 187 of 1991 on the legal status of children under which, once a child was recognized, it acquired from the time of its birth the legal status and rights of a child born in marriage in relation to both its parents and their relations.

36. It must also be noted that under the Cyprus citizenship laws of 1967-1983, article 9 (1), an illegitimate child who acquired the legal status of a child born in wedlock had for the purposes of the law the rights of a legitimate child.

37. Mr. SADI wondered why Cyprus, a country with such a good human rights record, had waited so long before meeting its reporting obligations.

38. He asked whether the people of Cyprus were acquainted with the Covenant and aware that they could invoke its provisions. He would like to know whether there was still hope for coexistence between the two communities in the context of a united country. He further asked what was the size of the

Turkish community and that of the Greek community. Lastly, how were the two communities being treated and was there still hope for coexistence?

39. Mr. BRUNI CELLI echoed the Chairman's remarks addressed to the Cypriot delegation and Mr. Mavrommatis. On the whole he was greatly impressed by the Cyprus report. Despite the particular difficulties facing the country and the suffering caused by years of division and foreign occupation, it had one of the best human rights records in the world. He hoped that a suitable solution could be found to resolve the current difficulties and eradicate remaining tensions between the two communities on the island. By and large, his main concerns had been dealt with by Mr. Sadi. However, he also had some doubts concerning current regulations relating to conscientious objection and their conformity with article 4, paragraph 7, of the Covenant. Moreover, the rather broad scope of article 7 of the Constitution of Cyprus concerning the application of capital punishment was not in keeping with article 6 of the Covenant. Likewise, reports from Amnesty International suggested that Cyprus did not abide by the provisions of article 7 of the same instrument.

40. Mr. POCAR, after welcoming the high-level Cypriot delegation, stressed the key role played by Mr. Mavrommatis, both as Chairman and as a member of the Committee. While he commended the delegation on its excellent report and detailed background information provided on legislation, he failed to understand why the report was so long overdue. The particular difficulties encountered by the country did not seem sufficient explanation for its late submission, especially since the situation had been no less serious in the 1970s, when Cyprus had presented its initial report in good time.

41. He would welcome further clarifications on the legal status of the Covenant in Cyprus. Referring to the decision of the Supreme Court in the case of Malachtos v. Armeftis and another, he said it was quite clear that the Constitution took precedence over conventions and ordinary laws. Furthermore, a convention had superior force over laws, based on the principle not of lex posterior but of lex superior. However, he wondered whether there was any possibility of according priority to an instrument such as the Covenant in those rare cases of inconsistency between the latter and the Constitution of Cyprus. He also inquired what steps had been taken to create awareness about the Covenant.

42. Mr. PRADO VALLEJO welcomed the opportunity for further dialogue with the Cypriot delegation and drew attention to the country's excellent human rights record. He paid a tribute to Mr. Mavrommatis, who had been instrumental in launching the activities of the Committee and enhancing its prestige over the years. He regretted the fact that Cyprus remained a divided nation and that the Government was therefore unable to ensure protection of human rights in the occupied part of the island, where the decisions of the Security Council continued to be flouted. He hoped for a speedy improvement in the situation.

43. Focusing on specific issues requiring clarification, he said that the appointment of an ombudsman referred to in paragraph 8 of the report was a welcome development. However, he would like more information on the powers of the ombudsman when investigating complaints and in particular "breaches of natural justice and improper exercise of discretionary power".

44. According to paragraph 21 of the report, equality between men and women was guaranteed by the Constitution, yet its article 28 (2) appeared to impose some restrictions. He sought clarification in that regard.

45. He expressed concern regarding current legislation governing conscientious objection. The Committee, in its general comment 22, had taken a sympathetic view towards the issue and had pointed to the need for protective legislation in that regard. Current legislation in Cyprus contained a seemingly punitive element inasmuch as conscientious objectors were required to perform 42 months of alternative service instead of the regular 24. Was there any likelihood of bringing that legislation into line with current thinking on the matter? The legislation relating to persons seeking asylum also required further explanation, in particular with regard to political refugees. He was concerned about the possibility of asylum-seekers being handed over to authorities of another country without sufficient guarantees, a case in point being the extradition of two Somali citizens to Saudi Arabia without the necessary assurances that upon their return to that country they would not be liable to capital punishment or another severe penalty.

46. Referring to paragraph 101 concerning public servants, he asked what exactly was meant by "Subject to certain reasonable and necessary constraints, a public servant can freely express his political views, ...". He wondered whether such constraints would be in conformity with the relevant provisions of the Covenant.

47. Lastly, he recalled that during the consideration of Cyprus's initial report, mention had been made of the imminent establishment of a special committee of experts that would study the provisions of the Covenant with a view to their incorporation into the Constitution. Had that committee been set up, and if so, what were its findings?

48. Mrs. EVATT, after echoing remarks addressed to Mr. Mavrommatis, welcomed the participation of the Law Commissioner in drafting the report and in the dialogue with the Committee, which reflected Cyprus's commitment to human rights and the establishment of the rule of law. Like other members, she failed to understand the tardy submission of the report, although admittedly great efforts had been made to provide as much detailed information as possible. While the importance of new legislation should not be underestimated, in order to monitor compliance with the provisions of the Covenant the Committee also required details of current practices and procedures and the application of standards by the reporting country. A case in point was the status of women in Cyprus; for although the information contained in the written replies to the questions under section I was very useful, there was an evident need for further measures to promote the equal participation of women in public service and other professions. For instance, although the Public Service Law, 1990 was welcome, she wondered whether there were any plans for legislation to prevent discrimination in respect of employment in the private sector as well as in the areas of education and the provision of social services.

49. Referring to article 2 of the Constitution, which set forth the various provisions concerning membership of the Greek and Turkish communities, she observed that women and children must belong to the community of their husband

or father, which implied some discrimination. Furthermore, she inquired whether the very complex provisions intended to ensure the equal representation of members of the two communities in public office were still in force. Perhaps they had been amended to reflect the new population situation in the country following the Turkish invasion.

50. Mrs. CHANET welcomed the fact that women constituted a majority on the Cypriot delegation and paid tribute to the skills and experience of Mr. Mavrommatis, which the Committee had often had occasion to draw upon in the past. She, too, was rather puzzled by the delay on the part of Cyprus in submitting the report. It certainly had nothing to hide, for despite the conditions prevailing in the country, respect for basic human rights was guaranteed. The very detailed report and additional written information provided an excellent insight into the legislative framework and human rights situation in the country.

51. Her main concern related to the Covenant, which apparently enjoyed no special status, although it took precedence over ordinary laws. While the report illustrated that where provisions were "self-executing" they had superior force to internal legislation, no details were given concerning provisions that were not "self-executing". Some of the provisions in the Covenant contained self-executing principles, but could not be applied directly. For instance, the implementation of criminal procedural legislation required the drafting of a specific organization act for that purpose. Drawing attention to a contradiction between chapter 155 of the Cyprus Code of Criminal Procedure and article 14, paragraph 5, of the Covenant, she sought further clarification concerning the status of the Covenant where its provisions conflicted with internal law. She also referred to a civil debt case tried in the Constitutional Court in which there was a clear discrepancy between the Constitution and the provisions of the Covenant. The Constitutional Court had ruled that the Constitution should take precedence, judging refusal to pay the debts in question as failure to comply with a court decision and thus a breach of article 11.2 of the Constitution. In her view, that ruling was not in conformity with article 11 of the Covenant. She would therefore welcome a more detailed explanation of the status of the Covenant in such cases. Referring to paragraph 96 of the report and the qualifications required in order to stand for election as representative of Parliament, she inquired what was meant exactly by "moral turpitude". Lastly, she asked for further details on the powers invested in the Commissioner for Administration. Had those powers been increased as a result of the reforms mentioned by the delegation in its earlier statement, and if so, did it enable him to refer substantiated complaints to the competent judicial authority?

52. Mr. EL SHAFEI welcomed the participation of the Law Commissioner and also the presence of women in the Cypriot delegation. Recalling his long personal and professional association with Mr. Mavrommatis, he stressed the latter's vital contribution to the work of the Committee, especially in connection with the establishment of its rules of procedure. The importance Cyprus attached to human rights was borne out by its swift ratification of the Covenant and the Optional Protocol. The comprehensive report provided ample information on the constitutional and legal framework in which the provisions of the Covenant were applied. The references to the Supreme Court, details on the application of conventions and the distinction between self-executing treaties and other agreements were very enlightening. However, he would welcome more information

on the relationship between the European Convention on Human Rights and the Covenant. Given the numerous references to the former, it seemed to have special status. Referring to paragraph 14 (c) of the report, he sought clarification regarding the section added to amend the law ratifying the International Convention on the Elimination of All Forms of Racial Discrimination. Furthermore, he expressed surprise that the right to compensation might not have existed in the past, as indicated in paragraph 15 of the report, and sought confirmation in that regard. In conclusion, he asked whether there was any particular explanation for the fact that the numerous legislative reforms introduced were all relatively recent.

53. Mr. AGUILAR URBINA welcomed the delegation of Cyprus and joined in commending the contribution made by Mr. Mavrommatis to the Committee's work.

54. The late submission of the second periodic report of Cyprus was said to be due to the circumstances in which the country found itself, yet the earlier reports had been submitted promptly, at a time when the guns of war were not yet cool. That being said, the delay was in great measure compensated by the volume of material now before the Committee, which demonstrated the concern with which human rights issues were viewed in Cyprus.

55. While it was stated in article 169 (3) of the Constitution that "conventions ... shall have ... superior force to any municipal law", that guarantee was associated with a caveat suggesting that non-observance by other parties could result in the annulment of the provision. He sought the reassurance that such would never be the case.

56. He had attentively studied paragraphs 4, 5 and 16 of the report, but had been unable to determine whether or not a law deemed by the Supreme Court to be at variance with the Covenant and thus unconstitutional would be struck from the statute-book. Clarification on that point would be welcome.

57. Concerning the equality of enjoyment and protection of human rights, and paragraph 12 of the report, he requested an explanation of the final phrase of article 28 (2) of the Constitution, according to which the enjoyment of rights without discrimination was subject to "express provision to the contrary in [the] Constitution". Did such express provision exist?

58. He submitted that to make disobedience of a court order punishable by imprisonment (para. 19 of the report) might violate article 11 of the Covenant. Also on the subject of non-compliance, he asked whether sanctions could be imposed for refusal to abide by the law safeguarding the rights of women to equal pay for work of equal value (para. 24 of the report).

59. Laudable efforts had obviously been made in Cyprus to implement the principle of equality of men and women; he nevertheless had the impression that family law and legislation on citizenship and nationality was still tilted in favour of men. Was that indeed the case? On another domestic issue, he was surprised to learn from paragraph 85 of the report that under the Constitution, any person reaching "nubile age", by which he understood the age of puberty, which could be as early as 11 years, was free to marry and found a family.

60. He was somewhat disturbed by the contents of the first part of paragraph 96 of the report, on article 25 of the Covenant concerning the political rights of citizens. What reservations existed under Cypriot law in that connection? Why were separate Cypriot Greek and Turkish electoral lists deemed necessary? How did Cypriot nationals of neither Greek nor Turkish origin find their place in such lists? And, in that connection, where would someone of other than Orthodox or Muslim religious persuasion - a Cypriot Buddhist, for example - in the two communities be placed for voting as well as for other purposes?

61. He inquired whether the bill, announced in paragraph 104 of the report as pending, for the administration of the estates of persons disabled for any reason, had been promulgated.

62. Lastly, he echoed Mrs. Chanet's inquiry concerning article 64 of the Constitution and the definition of "moral turpitude".

63. Mr. BAN welcomed the members of the Cypriot delegation and praised their compatriot, Mr. Mavrommatis, for the indispensable contribution he had made to the Committee's effectiveness over a considerable period of time.

64. Many questions had already been posed concerning the relationship between the Covenant and the Constitution and domestic legal order of Cyprus. He would merely ask whether, following that country's ratification of the first Optional Protocol, national implementation machinery had been set in place, with regard both to the submission of communications and to action on the Committee's findings. In an analogous question, he asked whether the jurisprudence established by the Committee over the years was taken as seriously in Cyprus as case law emanating from the European Court and the views of the European Commission of Human Rights obviously were.

65. Like the previous speaker, he was somewhat concerned by the reservation formulated at the end of article 28 (2) of the Cypriot Constitution, which seemed to place equal enjoyment of the rights established in that instrument, and hence in the Covenant, in jeopardy.

66. Additional information concerning the functioning of the Commissioner for Administration (Ombudsman) would be welcome; he asked what considerations had led to the establishment of that office which - if he had read the core document correctly - was no less than the seventeenth remedy available in Cyprus to an individual claiming violation of his rights.

67. He noted that the right to be registered as an elector was not accorded in Cyprus until the age of 21. That was unusually late for European countries, where the general tendency was to lower the voting age.

68. Mr. WENNERGREN commended the Cypriot delegation on the excellence of the report and supplementary information, and praised the qualities of leadership displayed by Mr. Mavrommatis in the Committee.

69. He wondered why conscientious objection to military service seemed to be treated so harshly in Cyprus, perhaps to the extent of violating both article 18 and article 26 of the Covenant, although it was true that

article 8 (3) (c) (ii) was silent on the nature and duration of alternative national service. The conscience of the individual was a most powerful force; its freedom must be unassailable.

70. Concerning paragraph 17 of the report, he inquired whether a decision by the Supreme Court that an administrative omission "ought to have been made" rendered rectification of that omission obligatory, whether by order of the court or by some other means.

71. He, too, considered that it was contrary to article 11 of the Covenant to make disobedience of a court order punishable by imprisonment.

72. Mr. FRANCIS joined in welcoming the members of the Cypriot delegation, whose compatriot, Mr. Mavrommatis, was receiving obviously well-deserved tributes.

73. He deplored the devastating effects of the occupation and colonization of part of Cyprus by Turkey. The matter had long been before the United Nations General Assembly and the Security Council, and he wondered whether the time had not come for NATO to grasp the nettle and seriously address an issue which directly concerned two of its member countries.

74. Like other members of the Committee, he was still not altogether certain as to the exact legal status of the Covenant, or of the Rome Convention and its Protocol, in relation to the Cypriot Constitution. A classification by the delegation of paragraph 16 of the report would be welcome.

75. Concerning domestic violence, especially against women, he asked whether family courts existed in Cyprus where incidents could be dealt with in a non-confrontational atmosphere and with the aid of counselling services.

76. Mr. NDIAYE, welcoming the Cypriot delegation, said that the report was all the more welcome in view of the considerable delay in its submission. He commended the leadership exercised by Mr. Mavrommatis at a critical time in the Committee's history, and more especially his championing of consensus.

77. He had been impressed by the report and by the abundant supplementary information just provided in writing. Cyprus was evidently a country that had coped well with what Hegel had called "the ruses of history". He especially admired its living standards: US$ 9,600 in 1990 had been a far from insignificant per capita income. But those positive findings only underscored his dismay and perplexity at the tragic circumstances in which the country found itself and his concern at the extent to which the Constitution was, or could be, applied. What actually remained of the country's basic law?

78. According to paragraph 86 of the report, jurisdiction in matters of marriage and divorce belonged to the ecclesiastical courts. Was that not a strange state of affairs for a secular country, or had the law been changed?

79. From the report, notably in relation to the implementation of article 27 of the Covenant, he drew the conclusion that the division of Cyprus into two distinct communities was deemed permanent. But did not the status quo contain long-term risks for the territorial integrity of the country? Was there no hope of eventual integration, or at least of greater interpenetration?

80. Concerning the reference in paragraph 102 of the report to restrictions in the rights of education officers, the referral of the matter by the President of the Republic to the Supreme Court, and the Court's findings that there was no incompatibility between the restrictions and the Constitution, he asked what form those restrictions had taken.

81. Lastly, he welcomed the ratification by Cyprus in 1992 of the first Optional Protocol to the Convention. So far, no Cypriot communications had been received by the Committee; he wondered whether that was because the situation of human rights gave no cause for complaints in Cyprus, or because the possibilities offered by the Optional Protocol had not been widely publicized.

82. Mr. HERNDL joined in welcoming the delegation of Cyprus, whose introductory statement had been impressive, and paid a tribute to Mr. Mavrommatis, who had provided the Committee with wise leadership at a very difficult time.

83. The report before the Committee had arrived nine years late; but Cyprus had been one of the first countries to ratify the Covenant and to submit an initial report, and the abundant material now presented made up in some measure for that delay. The supplementary information that had been circulated would, he hoped, be issued as an official document of the Committee.

84. He noted that the discussion so far had to a great extent focused on the relationship between the Covenant and national law. For his own part, he found most of the answers to his questions in article 169 of the Constitution, although there might be some residual doubt concerning the nature and identification of "self-executing" norms and the duty of the State where non-self-executing provisions of international instruments were concerned.

85. He was especially impressed by the equality provision of the Cypriot Constitution (art. 28), where the essential paragraph was, to his mind, the first one, which clearly stipulated equality before the law; paragraph 28 (2) only concerned equality with regard to the application of the Constitution.

The meeting rose at 1.05 p.m.